

REMARKS

Applicants have carefully considered the September 1, 2010 Office Action, and the amendments above together with the comments that follow are presented in a bona fide effort to address all issues raised in that Action and thereby place this case in condition for allowance. Claims 1-12 were pending in this application. Claims 3, 6, 7, 9, and 10 have been withdrawn from consideration pursuant to the lack of unity requirement. Upon allowance of generic claim 1, consideration of the withdrawn dependent claims is solicited.

In response to the Office Action dated September 1, 2010, claims 2, 8 and 11 have been canceled and claims 1 and 3-7 have been amended. Adequate descriptive support for the present Amendment should be apparent throughout the originally filed claims (e.g. claim 2) disclosure as, for example, the depicted embodiments (FIGS. 1-4) and related discussion thereof in the written description of the specification, including page 5, line 10 to page 6, line 13. Applicants submit that the present Amendment does not generate any new matter issue. Entry of the present Amendment is respectfully solicited. It is believed that this response places this case in condition for allowance. Hence, prompt favorable reconsideration of this case is solicited.

Claims 1, 2, 4, 5, 8 and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Tojo et al. WO 2003/105295 (the Examiner relying on the corresponding U.S. Pat. App. Pub. No. 2004/0206975 as the English language equivalent) in view of Kidoguchi (U.S. Pat. No. 5,751,013, hereinafter "Kidoguchi"). Applicants respectfully traverse.

Independent claim 1, as amended, describes:

A semiconductor light emitting device, comprising:
a GaP substrate;
an active layer located above said GaP substrate and including an n-type layer and a p-type layer of a compound semiconductor;
an ELO layer located between said GaP substrate and said active layer and formed by epitaxial lateral growth; and

a growth supporting layer located under and in contact with said ELO layer, wherein said ELO layer fills a window portion formed in said growth supporting layer, and grows laterally abutting on the growth supporting layer,
the growth supporting layer comprises an SiO₂ layer, and
the ELO layer comprises an AlGaAs layer.

It is respectfully submitted that Tojo alone, or in combination with Kidoguchi, fail to teach each and every limitation of amended claim 1. Tojo, at [0040] (referenced by the Examiner) describes a n-type GaN ELO layer, not a AlGaAs layer as required in claim 1. Further, it is not apparent that the “series of disconnected rectangles shown in the front page figure” of Tojo constitute a growth supporting layer, much less a growth supporting layer comprising an SiO₂, as required in claim 1. Thus, even if the applied references are combined as suggested by the Examiner, the claimed subject matter will not result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988). If any independent claim is non-obvious under 35 U.S.C. § 103(a), then any claim depending therefrom is non-obvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Moreover, with the present claimed structural configuration, advantageously allows for forming the ELO layer with superior crystallinity.

It is believed that all pending claims are now in condition for allowance. Applicants therefore respectfully request an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an interview or an Examiner’s amendment, the Examiner is invited to call Applicants' representative at the telephone number shown below.

Application No.: 10/594,742

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Brian K. Seidleck
Registration No. 51,321

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 BKS:idw
Facsimile: 202.756.8087
Date: December 1, 2010

**Please recognize our Customer No. 20277
as our correspondence address.**